

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
COLUMBIA DIVISION**

WILLIAM S. YANCEY, Individually and on behalf of all others similarly situated,)	
)	
Plaintiff,)	Civil Action No. 1:11-cv-00108
)	
vs.)	JUDGE WILLIAM J. HAYNES, JR.
)	
REMINGTON ARMS COMPANY, LLC, CASCADE CARTRIDGE, INC. a/k/a CCI AMMUNITION,)	JURY DEMANDED
)	
Defendants.)	

MOTION TO DISMISS BY AMMUNITION ACCESSORIES INC.

Defendant Ammunition Accessories Inc., improperly named as Cascade Cartridge, Inc. a/k/a CCI Ammunition ("AAI"), respectfully moves this Court pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure for an order dismissing the Complaint of Plaintiff William S. Yancey, individually and on behalf of all others similarly situated. For the reasons stated herein, Plaintiff has failed to state a claim upon which relief can be granted.

A. Plaintiff does not allege a violation of the Magnuson-Moss Warranty Act ("MMWA") against AAI. In the event Plaintiff argues his MMWA claim against Remington is imputed upon AAI, the Complaint fails to state a claim under MMWA because (1) Plaintiff's claim is barred by the statute of limitations; (2) AAI did not issue a written warranty; (3) Plaintiff was not in privity with AAI; (4) Plaintiff failed to satisfy the MMWA notice requirement; (5) Plaintiff failed to name 100 plaintiffs in his Complaint and allege individual claims in excess of \$25; and (6) Plaintiff has not suffered a loss.

B. The Complaint fails to state a claim under the North Carolina Monopolies, Trusts and Consumer Protection Act (the "Unfair and Deceptive Trade Practices Act" or "UDTPA") claim because a foreign jurisdiction's consumer protection laws cannot be maintained under Tennessee law. Even under North Carolina law, Plaintiff's UDTPA claim fails because (1) allegations of breach of warranty, without claiming immoral, unethical, oppressive, unscrupulous, or substantially injurious conduct, are insufficient to state a UDTPA claim; (2) Plaintiff failed to allege actual reliance on any purported misrepresentation made by AAI; (3) Plaintiff's damages are too speculative to survive a motion to dismiss; and (4) Plaintiff alleges only economic damages, which are barred by the economic loss doctrine.

C. The Complaint fails to state a claim for unjust enrichment because (1) Plaintiff failed to allege AAI inequitably received a benefit; and (2) Plaintiff failed to exhaust all remedies against the person with whom he has privity.

AAI's grounds for, and arguments in support of, its Motion are detailed in its Memorandum of Law in Support of Motion to Dismiss filed herewith.

Respectfully submitted,

LEWIS, KING, KRIEG & WALDROP, P.C.

By: /s/ John R. Tarpley

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By: /s/ George W. Soule, by John Tarpley with permission

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a/k/a CCI Ammunition

CERTIFICATE OF SERVICE

I hereby certify that on this the 28th day of March, a copy of the foregoing was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. All other parties will be served by regular U.S. mail. Parties may access this filing through the Court's electronic filing system.

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